

aggregate, or to the private sector. This federal action approves pre-existing requirements under State or local law, and imposes no new federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

#### List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

**Authority:** 42 U.S.C. 7401–7671q.

Dated: August 21, 1995.

**Felicia Marcus,**

*Regional Administrator.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Parts 649, 650, and 651

[Docket No. 950824215–5217–02; I.D. 050295B]

RIN 0648–AH37

#### American Lobster Fishery, Framework Adjustment 1; Atlantic Sea Scallop Fishery, Framework Adjustment 3; Northeast Multispecies Fishery, Framework Adjustment 7; Vessel Ownership Requirements

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS proposes measures contained in Framework Adjustment 1 to the American Lobster Fishery Management Plan (FMP), Framework Adjustment 3 to the Atlantic Sea Scallop FMP, and Framework Adjustment 7 to the Northeast Multispecies FMP. These framework adjustments would revise a provision in each of the FMPs that requires all permit applicants to own a fishing vessel at the time they apply for or renew a Federal limited access permit. This proposed action would allow certain applicants who have owned vessels that meet the various limited access permit qualification criteria, but who do not currently own a vessel, to preserve their eligibility to apply for a limited access permit for a replacement

vessel in subsequent years by obtaining a Confirmation of Permit History.

**DATES:** Comments on the proposed rule must be received on or before September 15, 1995.

**ADDRESSES:** Comments on the proposed rule or supporting documents should be sent to Dr. Andrew A. Rosenberg, Regional Director, Northeast Region, NMFS, 1 Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope “Comments on Proposed Framework Adjustments to Vessel Ownership Requirements.”

Copies of the Framework Adjustments, Amendment 5 to the American Lobster FMP, Amendment 4 to the Atlantic Sea Scallop FMP, and Amendment 5 to the Northeast Multispecies FMP, including regulatory impact reviews, initial regulatory flexibility analyses, and final supplemental environmental impact statements are available upon request from Douglas Marshall, Executive Director, New England Fishery Management Council, 5 Broadway, Saugus, MA 01906–1097; telephone: 617–231–0422.

**FOR FURTHER INFORMATION CONTACT:** E. Martin Jaffe, Fishery Policy Analyst, 508–281–9272.

#### SUPPLEMENTARY INFORMATION:

##### Background

In 1994, NMFS implemented major amendments developed by the New England Fishery Management Council (Council) to the FMPs for the Atlantic sea scallop, northeast multispecies and the American lobster fisheries. These amendments, which were intended to address overfishing in these fisheries, implemented measures that limited access to these fisheries based upon historical participation.

NMFS partially implemented Amendment 4 to the Atlantic Sea Scallop FMP (January 19, 1994, 59 FR 2757) and Amendment 5 to the Northeast Multispecies FMP on March 1, 1994 (59 FR 9872). Most of the measures remaining became effective on May 1, 1994 (59 FR 22760, May 3, 1995). NMFS implemented the approved sections of Amendment 5 to the American Lobster FMP on June 21, 1994 (59 FR 31938).

Under current regulations for the Atlantic sea scallop and northeast multispecies fisheries, to be eligible to obtain a Federal limited access permit in 1994, an applicant had to have owned a vessel that qualified under the limited access criteria for each respective fishery. In addition, an applicant had to obtain a permit in 1994 to be eligible to renew a limited access

permit in future years. Current regulations for the American lobster fishery are the same, with the exception that the qualifying year is 1995. These requirements represent a continuation of preexisting permit requirements.

Under a limited access permit system, however, this situation poses a potential problem for anyone who does not own a fishing vessel at the time he or she applies for, or renews, a limited access permit. This includes anyone who sold or transferred a vessel and retained the permit and fishing history, but did not buy a new vessel in time to apply for an initial Atlantic sea scallop or northeast multispecies permit during the 1994 calendar year, or, in the case of American lobster, during the 1995 calendar year.

In developing Amendment 5 to the American Lobster FMP, Amendment 4 to the Atlantic Sea Scallop FMP, and Amendment 5 to the Northeast Multispecies FMP, the Council adopted the policy that vessel owners should not be required to continue to fish their vessels to be eligible to obtain or renew limited access permits. The Council did not intend to force vessels to remain active in currently overfished fisheries to retain fishing rights for the future, but it did not explicitly address the issue of vessel ownership as a requirement to obtain a permit under the various FMP amendments. Therefore, current regulations contradict the Council's intent not to require vessels to remain active in a limited access fishery.

##### Proposed Adjustment

To address this problem, the Council has requested NMFS to implement this proposed action, which would allow an applicant who has owned a vessel that meets the various limited access permit qualification criteria, but who does not own a vessel at the time of application, to preserve his or her right to qualify for a Federal limited access permit for a replacement vessel in subsequent years in the Atlantic sea scallop and northeast multispecies fisheries, and in the American lobster fishery. Qualified applicants would be allowed to apply for a Confirmation of Permit History, and would need to apply for such annually, to preserve the permit and fishing history of the qualifying vessel.

##### Comments and Responses

The Council has discussed and heard public comment on this issue for several years during the development of the amendments to the Northeast Multispecies and Atlantic Sea Scallop FMPs. More recently, this problem was discussed at the September 21–22, 1994, Council meeting, at which time the

Council initiated this combined framework action. The public was notified of this Council meeting, and of the final Council meeting held on October 28–29, 1994, at which time this action was discussed. No public comments were received. This proposed rule provides the public with an additional opportunity to comment.

#### Classification

This proposed rule has been determined to be not significant under E.O. 12866.

This rule contains a collection-of-information requirement subject to the Paperwork Reduction Act that has been approved by the Office of Management and Budget under OMB Control Number 0648–0202. The public reporting burden for completing an application for a Confirmation of Permit History is estimated at 0.5 hours per response. This estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to NMFS (see ADDRESSES) and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503 (Attention: NOAA Desk Officer).

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities because it would not: (1) Result in a change in annual gross revenues of more than 5 percent; or (2) increase annual compliance costs for small entities by more than 5 percent and would not increase compliance costs for small entities compared to large entities.

#### List of Subjects

##### 50 CFR Part 649

Fisheries.

##### 50 CFR Part 650

Fisheries, Reporting and recordkeeping requirements.

##### 50 CFR Part 651

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: August 28, 1995.

#### Rolland A. Schmitten,

*Assistant Administrator for Fisheries,  
National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR Parts 649, 650, and 651 are proposed to be amended as follows:

#### PART 649—AMERICAN LOBSTER FISHERY

1. The authority citation for part 649 continues to read as follows:

**Authority:** 16 U.S.C. 1801 *et seq.*

2. In § 649.4, paragraph (b)(1)(iv) is added to read as follows:

##### § 649.4 Vessel permits.

(b) \* \* \*

(1) \* \* \*

(iv) *Confirmation of Permit History.*

Notwithstanding any other provisions of this part, a person who does not currently own a fishing vessel, but who has owned a qualifying vessel that has sunk, been destroyed, or transferred to another person, may apply for and receive a Confirmation of Permit History if the fishing and permit history of such vessel has been retained lawfully by the applicant. To be eligible to obtain a Confirmation of Permit History, the applicant must show that the qualifying vessel meets the eligibility requirements, as applicable, in this part. Issuance of a valid and current Confirmation of Permit History preserves the eligibility of the applicant to apply for or renew a limited access permit for a replacement vessel based on the qualifying vessel's fishing and permit history at a subsequent time, subject to the replacement provisions specified at § 649.4. A Confirmation of Permit History must be applied for and received on an annual basis in order for the applicant to preserve the fishing rights and limited access eligibility of the qualifying vessel. If fishing privileges have been assigned or allocated previously under this part based on the qualifying vessel's fishing and permit history, the Confirmation of Permit History also preserves such fishing privileges. Any decision regarding the issuance of a Confirmation of Permit History for a qualifying vessel that has applied for or been issued previously a limited access permit under this part is a final agency action subject to judicial review under 5 U.S.C. 704. Applications for a Confirmation of Permit History shall be accepted by the Regional Director on or before December 31, 1995. For subsequent years, applications must be received by the end of the calendar year in which the Confirmation of Permit History expires.

Information requirements for the Confirmation of Permit History application shall be the same as those for a limited access permit with any request for information about the vessel being applicable to the qualifying vessel that has been sunk, destroyed, or transferred. Vessel permit applicants who hold a Confirmation of Permit History and who wish to obtain a vessel permit for a replacement vessel based upon the previous vessel history may do so pursuant to paragraph (b) of this section.

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#### PART 650—ATLANTIC SEA SCALLOP FISHERY

3. The authority citation for part 650 continues to read as follows:

**Authority:** 16 U.S.C. 1801 *et seq.*

4. In § 650.4, the introductory text is revised and paragraph (a)(1)(iv) is added to read as follows:

##### § 650.4 Vessel permits.

Any vessel of the United States that fishes for, possesses, or lands per trip Atlantic sea scallops in quantities greater than 40 lb (18.14 kg) shucked scallops or 5 bushels (176.2 l) in-shell, except vessels that fish exclusively in state waters for sea scallops, must have been issued and carry on board a valid limited access scallop permit or a valid general scallop permit, issued under this section.

(a) \* \* \*

(1) \* \* \*

(iv) *Confirmation of Permit History.*

Notwithstanding any other provisions of this part, a person who does not currently own a fishing vessel, but who has owned a qualifying vessel that has sunk, been destroyed, or transferred to another person, may apply for and receive a Confirmation of Permit History if the fishing and permit history of such vessel has been retained lawfully by the applicant. To be eligible to obtain a Confirmation of Permit History, the applicant must show that the qualifying vessel meets the eligibility requirements, as applicable, in this part. Issuance of a valid and current Confirmation of Permit History preserves the eligibility of the applicant to apply for or renew a limited access permit for a replacement vessel based on the qualifying vessel's fishing and permit history at a subsequent time, subject to the replacement provisions specified at § 650.4. A Confirmation of Permit History must be applied for and received on an annual basis in order for the applicant to preserve the fishing rights and limited access eligibility of the qualifying vessel. If fishing

privileges have been assigned or allocated previously under this part based on the qualifying vessel's fishing and permit history, the Confirmation of Permit History also preserves such fishing privileges. Any decision regarding the issuance of a Confirmation of Permit History for a qualifying vessel that has applied for or been issued previously a limited access permit under this part is a final agency action subject to judicial review under 5 U.S.C. 704. Applications for a Confirmation of Permit History shall be accepted by the Regional Director on or before 30 days after publication of the final rule. For subsequent years, such applications must be received by the end of the calendar year in which the Confirmation of Permit History expires. Information requirements for the Confirmation of Permit History application shall be the same as those for a limited access permit with any request for information about the vessel being applicable to the qualifying vessel that has been sunk, destroyed or transferred. Vessel permit applicants who hold a Confirmation of Permit History and who wish to obtain a vessel permit for a replacement vessel based upon the previous history may do so pursuant to paragraph (a) of this section.

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#### **PART 651—NORTHEAST MULTISPECIES FISHERY**

5. The authority citation for part 651 continues to read as follows:

**Authority:** 16 U.S.C. 1801 *et seq.*

6. In § 651.4, paragraph (a) introductory text is revised and paragraph (a)(1)(iv) is added to read as follows:

#### **§ 651.4 Vessel permits.**

\* \* \* \* \*

(a) *Limited access multispecies permits.* Beginning on May 1, 1994, any vessel of the United States that possesses or lands more than the possession limit of regulated species specified under § 651.27(a), except vessels fishing with fewer than 4,500 hooks that have been issued a hook-gear-only permit as specified in paragraph (b) of this section, vessels fishing for regulated species exclusively in state waters, and recreational fishing vessels, must have been issued and carry on board a valid Federal limited access multispecies permit, or an authorizing letter issued under paragraph (a)(8)(v) of this section. To qualify for a limited access multispecies permit, a vessel must meet the following criteria, as applicable:

(1) \* \* \*

(iv) *Confirmation of Permit History.* Notwithstanding any other provisions of this part, a person who does not currently own a fishing vessel, but who has owned a qualifying vessel that has sunk, been destroyed, or transferred to another person, may apply for and receive a Confirmation of Permit History if the fishing and permit history of such vessel has been retained lawfully by the applicant. To be eligible to obtain a Confirmation of Permit History, the applicant must show that the qualifying vessel meets the eligibility requirements, as applicable, in this part. Issuance of a valid and current Confirmation of Permit History preserves the eligibility of the applicant to apply for or renew a limited access permit for a replacement vessel based on the qualifying vessel's fishing and permit history at a subsequent time,

subject to the replacement provisions specified at § 651.4. A Confirmation of Permit History must be applied for and received on an annual basis in order for the applicant to preserve the fishing rights and limited access eligibility of the qualifying vessel. If fishing privileges have been assigned or allocated previously under this part based on the qualifying vessel's fishing and permit history, the Confirmation of Permit History also preserves such fishing privileges. Any decision regarding the issuance of a Confirmation of Permit History for a qualifying vessel that has applied for or been issued previously a limited access permit under this part is a final agency action subject to judicial review under 5 U.S.C. 704. Applications for a Confirmation of Permit History shall be accepted by the Regional Director on or before 30 days after publication of the final rule. For subsequent years, such applications must be received by the end of the calendar year before the year for which the Confirmation of Permit History expires. Information requirements for the Confirmation of Permit History application shall be the same as those for a limited access permit with any request for information about the vessel being applicable to the qualifying vessel that has been sunk, destroyed or transferred. Vessel permit applicants who hold a Confirmation of Permit History and who wish to obtain a vessel permit for a replacement vessel based upon the previous vessel history may do so pursuant to paragraph (a) of this section.

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